

217314

FAX: 202: 565-9009

9016 = Rudy

TO: Vernon Williams, Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423

FROM: James Riffin  
1941 Greenspring Drive  
Timonium, MD 21093  
(443) 414-6210  
August 18, 2006

RE: Docket No. AB-167 (Sub-No. 1185X), Consolidated Rail Corporation - Abandonment  
Exemption - In Mercer County, NJ

Dear Secretary Williams:

I am faxing to your office a copy of the Motion to Reconsider that I will be sending to the Board via overnight delivery. The Motion to Reconsider contains a copy of the Petition to Toll Date an Offer of Financial Assistance Must be Filed By, which Petition I sent to the Board on July 13, 2006. (It arrived at the Board on July 19, 2006. It was not placed in the AB 167 Sub 1185 case file, it was not put on the Board's web site, and as of August 17, 2006, it had not been located.) The hard copy filing contains one original and ten copies. Below is a photocopy of the receipt for mailing the Motion to Reconsider.

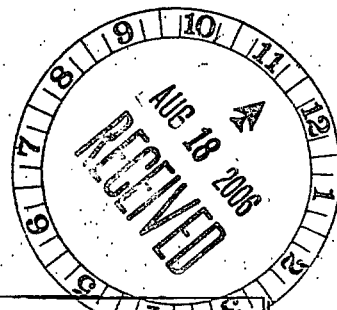
ENTERED  
Office of Proceedings

AUG 18 2006

Part of  
Public Record

Respectfully,

*James Riffin*  
James Riffin



<b>1</b> TO: 1941 Greenspring Drive City: TIMONIUM MD ZIP CODE (Required): 21093 State: MD Zip Code (Required): 21093 Sent: (Name/Dept): JIM Phone (Required): 443 414 6210		<b>3</b> Payment Sender will be billed unless marked otherwise Bill to: Receiver 3rd Party <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> Paid in Advance Check No. Amount 3.98 Billing Reference (will appear on Invoice)		Origin Waybill Number 57268502340
<b>2</b> City: WASHINGTON DC State: DC ZIP CODE (Required): 20036 Attention: (Name/Dept): MAIL ROOM Phone (Required): 202 565 1590		<b>4</b> Weight (LBS) 1 Social Instructions Hold at DHL <input type="checkbox"/> No C.O.D. Packages		Shipment Valuation <input type="checkbox"/> Shipment Value Protection \$ .00
Description: No Hazardous Materials Filing - Motion to Reconsider		Sender's Signature: <i>James Riffin</i> Date: 8/18/06 DHL Signature: <i>Edy C</i>		Expires:

Ground  
Delivery  
Service



ASSENT A HIGHER SHIPMENT VALUATION.  
CARRIERS LIABILITY IS LIMITED TO  
\$100 PER SHIPMENT, OR ACTUAL VALUE,  
WHICHEVER IS LESS. SPECIAL OR  
CONSEQUENTIAL DAMAGES ARE NOT  
RECOVERABLE. SEE TERMS AND  
CONDITIONS ON REVERSE SIDE OF THIS  
NON-NEGOTIABLE WAYBILL.



DHL Express (USA), Inc.,  
1200 South Pine Island Road,  
Plantation, FL 33324  
1 800 Call-DHL



**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB DOCKET NO. AB-167 (Sub- No. 1185X)**

---

**CONSOLIDATED RAIL CORPORATION  
ABANDONMENT EXEMPTION  
IN MERCER COUNTY, NJ**

---

**MOTION FOR RECONSIDERATION**

---

1. James Riffin ("Riffin"), pursuant to the applicable regulations of the Surface Transportation Board ("STB" or "Board"), herewith files this Motion for Reconsideration, requesting that the Board reopen, then reconsider its August 10, 2006 decision granting Conrail's exemption for the abandonment of that portion of a line of railroad known as the Robbinsville Industrial Track, between milepost 32.20 and milepost 37.90, in the cities of Hamilton Township and Washington Township, Mercer County, New Jersey, a distance of 5.7 miles more or less, ("Exemption"), which line of railroad is the subject of the above entitled proceeding ("Line"), and for reasons states:

2. In a Decision dated August 10, 2006, the Board correctly noted that a notice of intent to file an offer of financial assistance (OFA) was filed by James Riffin ("Riffin"), thereby automatically staying the effective date of the Exemption until August 12, 2006. The Board also correctly noted that Riffin requested Conrail provide Riffin with financial data and information regarding the line, that Conrail had sent some of the requested information to Riffin on August 9, 2006, and that Riffin's OFA was due by August 2, 2006. The Board **incorrectly** noted that the Board had not received a request to toll the time period for filing an OFA.

3. On July 13, 2006, Riffin faxed a copy of his Notice of Intent to File an Offer of Financial Assistance to the Board. Later that same day, Riffin sent to the Board, via DHL Express ("DHL"), one original and 10 copies of his Notice of Intent to File an Offer of Financial Assistance, and one original and 10 copies of a Petition to Toll Date an Offer of Financial Assistance Must Be Filed By ("Filings"). Copies of the Notice of Intent and Petition to Toll Date

were sent to John Enright, counsel for Conrail, and to four parties that had, as of July 12, 2006, filed Notices of Intent to Participate.

4. A copy of way bill number 25944783141, evidencing receipt by DHL of Riffin's Filings, is attached. The date of receipt by NGB, a DHL employee, was incorrectly noted as July 12, 2006. DHL's records correctly indicate the Filings were received by DHL on July 13, 2006. DHL's records also indicate the Filings were delivered to the Board's mailroom on July 19, 2006 at 11:01 a.m., and were signed for by "Zachery." DHL's records do not indicate why it took six days to effect delivery, rather than the normal one day. Riffin used the Zip Code for the building housing the Board, rather than the Board's own Zip Code. (In previous filings, DHL had requested Riffin use the Zip Code for the building, rather than the Board's own Zip Code.)

5. Riffin received a copy of the Board's August 10 Decision the evening of August 15, 2006. In an effort to ascertain why the Board had not seen Riffin's Motion to Toll Time, on August 16, 2006, Riffin called Rudy St. Louis. Mr. St. Louis made some inquiries, then called Riffin back later that same day, saying Riffin's Filings had not been located, and verifying Riffin's Filings had not been posted on the Board's website. To date, Riffin's Filings have not been located.

6. Since Riffin did timely file a Petition to Toll Date an Offer of Financial Assistance Must Be Filed By, Riffin would request the Board reopen this case, and then upon reconsideration, find that Riffin had timely filed a Petition to Toll Date, and then toll the date that an Offer of Financial Assistance must be filed by.

#### **INFORMATION PROVIDED TO RIFFIN BY CONRAIL**

7. On August 9, 2006, Conrail sent some of the information Riffin needs to file an informed Offer of Financial Assistance. In a letter addressed to Mr. Enright, counsel for Conrail, dated August 18, 2006, Riffin has requested Conrail provide Riffin with the following additional information:

A. Deed references, or copies of deeds, for the right-of-way. Riffin needs to review the deeds to ascertain how many acres are being abandoned, and what type of title would be transferred (fee simple or reversionary). [In Mr. Enright's August 9 letter, he indicated the right-of-way contained 48 acres, all of which were in fee simple. In an earlier telephone conversation, Mr. Enright told Riffin the right of way was about 30 feet wide. A right-of-way 30 feet wide by 5.7 miles long would contain 20.7 acres. To contain 48 acres, the right-of-way would have to have an average width of 70 feet. Visual observation of the right-of-way indicated significant portions of the right-of-way were only about 30 feet wide. The best way to resolve this conflicting information, would be to read the applicable deeds.]

B. The particulars associated with the comparable used by Mr. Enright to ascribe a value of \$150,000 per acre for the right-of-way. [The copy of the comparable provided to Riffin had the address and other particulars redacted. Without knowing the exact location, zoning, use and

other relevant information about the comparable, one cannot use the value ascribed to the comparable to determine the value per acre to be ascribed to the right-of-way.]

C. The estimated cost to remove the ties, rails, etc., the estimated cost to dispose of unusable ties, and the estimated cost to transport the good ties, rails, etc. to point of sale. [49 CFR 1152.27 (a) (ii) (3) states the carrier must provide to the offeror the carrier's estimate of the net liquidation value of the line, with supporting data reflecting available real estate appraisals, assessments of the quality and quantity of track materials in a line, and removal cost estimates, including the cost of transporting removed materials to a point of sale. Conrail's August 9, 2006 letter to Riffin did include some information regarding the quantity and quality of track materials in the line, but did not include an estimate of the cost to remove the track material, nor did it include an estimate of the cost to transport the track material to a point of sale.]

**NORFOLK SOUTHERN AND CSX TRANSPORTATION  
MUST FILE NOTICES OF DISCONTINUANCES / ABANDONMENT  
PRIOR TO THE BOARD APPROVING AN OFFER OF FINANCIAL ASSISTANCE  
OR GRANTING AN EXEMPTION FOR ABANDONMENT**

8. The Line which is the subject of this abandonment proceeding, appears to be a part of Conrail's Retained Assets within the North Jersey Shared Assets Area ("NJSAA"), established as part of the Conrail control transaction, approved by the Board in *CSX Corp. et. al. - Control - Conrail Inc. et. al.*, 3 S.T.B. 196 (1998) (Decision No. 89).

9. In Docket No. AB 290 (Sub-No. 212X), *Norfolk Southern Railway Company - Discontinuance Exemption - In Hudson County, NJ*, Decided January 28, 2002, the Board made the following statements:

"The River Line is one of a number of branch lines located within the North Jersey Shared Assets Area (NJSASA) ... NS and CSXT acquired local and overhead operating rights over the River Line and all other lines within the three Shared Assets Areas. NS and CSXT have exclusive and independent authority to establish rates, charges, service terms, routes, and divisions for, and to collect freight revenues on, any traffic moving within the Shared Assets Areas for their account. See Conrail Purchase, 3 S.T.B. at 228. Neither carrier, however, has operated over the River Line. Instead, Conrail, acting as their agent, provided service to Cognis and Dykes." Decision pp. 2-3.

Note 3: "Conrail filed applications to abandon its remaining interest in the line segments on November 14, 2000. See ... *Conrail - Abandonment of the River Line - In Hudson County, NJ*, STB Docket No. AB -167 (Sub-No. 1067N)."

Note 12: "NS and CSXT state that they intend to implement the proposed discontinuance of service exemptions to the same extent and at the same time Conrail exercises its abandonment authorities."

10. In light of the Board's holding in AB 290 (Sub No. 212X) that NS and CSXT acquired independent authority to operate over all Retained Assets in the NJSAA, it would appear that both Norfolk Southern and CSXT must contemporaneously file Notices of Discontinuance, which the Board must approve, before the Board can grant Conrail's exemption to abandon the Robbinsville Industrial Track. Likewise, these Notices of Discontinuance would have to be filed and approved by the Board, before the Board could approve an Offer of Financial Assistance to purchase the Robbinsville Industrial Track.

11. Eleven copies of Riffin's Petition to Toll Date an Offer of Financial Assistance Must Be Filed By, are enclosed, to replace the eleven copies the Board misplaced.

12. For the reasons stated above, Riffin would respectively ask that the Board:

A. Reopen the above entitled case, then reconsider its decision granting Conrail's exemption for abandonment.

B. Rule on the issue of whether Norfolk Southern and CSXT must file Notices of Discontinuance to abandon their operating rights over the Line, and whether these Notices of Discontinuance must be filed and approved prior to anyone filing an Offer of Financial Assistance to purchase the Line.

C. Toll the time period for filing an Offer of Financial Assistance to purchase the Line until after Conrail has provided Riffin with sufficient information to make an informed offer to purchase the Line, and until after the Board has ruled on the issue of whether Norfolk Southern and CSXT must file Notices of Discontinuance to abandon their operating rights over the Line, and if so, until after the Board has approved those Notices of Discontinuance.

Respectfully submitted,

  
James Riffin

### CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of August, 2006, a copy of the foregoing Motion for Reconsideration, was served by first class mail, postage prepaid, upon John K. Enright, counsel for Conrail, 1000 Howard Boulevard, 4<sup>th</sup> Floor, Mt. Laurel, NJ 08054, and to the other parties of record noted below.

  
James Riffin

Julie Petix  
509 Oliver St.  
Bordentown City  
NJ 08505

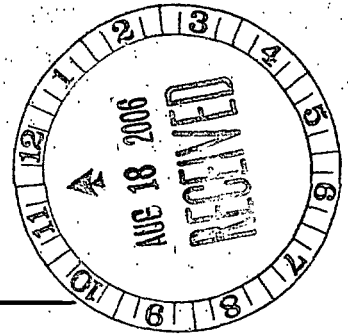
Richard Willinger  
20 Carlyle Ct.  
Robbinsville  
NJ 08691

Rocky Swingle  
P.O. Box 2594  
Hamilton  
NJ 08690

Sean P. Simon  
C&A Trail Conservancy  
233 Walden Cir  
Robbinsville, NJ 08691

Michael E. Allen  
W.R. Allen Associates  
P.O. Box 662  
Rocky Hill, NJ 08553

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



**STB DOCKET NO. AB-167 (Sub- No. 1185X)**

**CONSOLIDATED RAIL CORPORATION  
ABANDONMENT EXEMPTION  
IN MERCER COUNTY, NJ**

**PETITION TO TOLL DATE  
AN OFFER OF FINANCIAL ASSISTANCE MUST BE FILED BY**

1. On July 3, 2006, the Surface Transportation Board ("Board") served notice that the Consolidated Rail Corporation ("Conrail") had filed an Abandonment Exemption to abandon 5.7 miles of line situated in Mercer County, NJ, which Abandonment Exemption is the subject matter of the above entitled proceeding.

2. The Board's decision specified that a Notice of an Offer of Financial Assistance must be filed by July 13, 2006.

3. On July 13, 2006, James Riffin ("Riffin"), pursuant to the applicable regulations of the Surface Transportation Board ("STB" or "Board"), faxed a copy of his formal Notice of Intent to File an Offer of Financial Assistance ("OFA Notice"), to purchase from the Consolidated Rail Corporation ("Conrail") that portion of a line of railroad known as the Robbinsville Industrial Track, between milepost 32.20 and milepost 37.90, in the cities of Hamilton Township and Washington Township, Mercer County, New Jersey, a distance of 5.7 miles more or less, which line of railroad is the subject of the above entitled proceeding ("Line"). The line traverses Postal Zip Codes 08620 and 08520.

4. On July 13, 2006, one original and ten copies of Riffin's OFA Notice, was sent via overnight delivery to the Board.

5. On July 13, 2006, a copy of Riffin's OFA Notice was mailed, via first class mail, to John K. Enright, Conrail's representative in this matter, and to the other parties of record. In that OFA Notice, Riffin requested Conrail provide Riffin with information regarding the Line. Riffin

cannot prepare an informed Offer of Financial Assistance without first reviewing the information Riffin requested.

6. Publication of the notice of exemption was published in the **Federal Register on June 22, 2006.**

7. 49 CFR 1152.27 (b) (2) (ii) states Offers of Financial Assistance must be filed no later than 30 days after the date of the Federal Register publication giving notice of the exemption, or **July 22, 2006** in the instant proceeding.

8. Since it is unlikely Riffin will receive from Conrail, prior to July 22, 2006, the information Riffin requested, and since review of this information is necessary before Riffin can submit an informed Offer of Financial Assistance, **Riffin respectively requests that the date by which an Offer of Financial Assistance must be submitted, be tolled until 90 days after Riffin receives all of the information he has asked Conrail to provide him with.**

Respectively



James Riffin

### CERTIFICATE OF SERVICE

I hereby certify that on this 13<sup>th</sup> day of July, 2006, a copy of the foregoing Petition to Toll Date an Offer of Financial Assistance Must be Filed By, was served by first class mail, postage prepaid, upon John K. Enright, 1000 Howard Boulevard, 4<sup>th</sup> Floor, Mt. laurel, NJ 08054, and to the other parties of record noted below.



James Riffin

Julie Petix  
509 Oliver St.  
Bordentown City  
NJ 08505

Richard Willinger  
20 Carlyle Ct.  
Robbinsville  
NJ 08691

Rocky Swingle  
P.O. Box 2594  
Hamilton  
NJ 08690

Sean P. Simon  
C&A Trail Conservancy  
Robbinsville *233 Walden Cir*  
NJ 08691



Page: 1 Document Name: untitled

SARC \*\*\* ARC \*\*\* CUSTOMER SERVICE ARC AIRBILL SUMMARY \*\*\* ARC \*\*\*

AB#: 25944783141 D MTN -> DCA SPECIAL SERVICE: GDS  
SHIPMENT DATE: 07/13/06 PU LOCATION: AT PRODUCT TYPE: O  
DHL GROUND SERVICE  
DISPOSITION: LD 07/19/06 1101 ZACHERY RC

SNDR: 00219153914 RCVR: 88888888888  
JAMES RIFFIN SURFACO TRANSPORTATION  
BOARD  
1941 GREEN SPRING DR 1925 K ST NW

TIMONIUM MD 21093 WASHINGTON DC 20036

REF:

BY: 443-414-6210

ATTN: MAIL ROOM 202-565-1490

3RD PARTY:

FREIGHT DESCRIPTION:

ACT WT: 1 CHG WT: 1 PCS: 1 RATED BY: ABX  
AB#: 25944783141 ORG: DEST: P/U DTE: TO:  
SNDR: RCVR: DRP BX: REF: SVC:  
GOTO: 5=SERV 15=MSG 8=SAVH 11=HELP 12=PR 0

<b>1</b> From Company James Riffin Street Address 1941 Green Spring Dr City Timonium MD Sent by (Name/Dept) Phone (Required) 443 414 6210 ZIP CODE (Required) 21093		<b>3</b> Payment Sender will be billed unless marked otherwise Bill to: Receiver 3rd Party <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> Paid in Advance Check No. CASH Amount 3.98 Billing Reference (will appear on invoice)		Origin Waybill Number 25944783141 Account # (Required if 3rd Party)	
<b>2</b> To Company Surfaco Transportation Street Address 1925 K St NW City Washington DC Attention: (Name/Dept) Phone (Required) 202 565 1490 ZIP CODE (Required) 20036		<b>4</b> Weight (LBS) REQUIRED SUBJECT TO CONNECTION Hold at DHL <input type="checkbox"/> No C.O.D. Packages		Shipment Valuation <input type="checkbox"/> Shipment Value Protection \$ .00	
Description: No Hazardous Materials Filing Motion Toll Time to File of A Sender's Signature Date 7/12		Payment Details (Credit Card) Type Expires		DHL EXPRESS DHL Worldwide Express, Inc., 1200 South Pine Island Road, Plantation, FL 33324 1 800 Call-DHL	

Ground  
Delivery  
Service

ABSENT A HIGHER PACKAGE VALUATION,  
CARRIER'S LIABILITY IS LIMITED TO  
\$100 PER PACKAGE, OR ACTUAL VALUE,  
WHICHEVER IS LESS. SPECIAL OR  
CONSEQUENTIAL DAMAGES ARE NOT  
RECOVERABLE. SEE TERMS AND  
CONDITIONS ON REVERSE SIDE OF THIS  
NON-NEGOTIABLE WAYBILL.



DHL Worldwide Express, Inc.,  
1200 South Pine Island Road,  
Plantation, FL 33324  
1 800 Call-DHL

DHL: Get delivery signature detail

Page 1 of 1

Conte



DHL USA home



## Delivery Signature Detail

### Track

- ▶ Track by number
- ▶ Track by reference
- ▶ Get delivery signature
- ▶ Track DHL Same Day service

### Log in to DHL

User ID Password ☐ Remember my User ID

Log in

▶ Forgot your Password?

Tracking Delivery Signature details...Tracking  
Number 25944783141

### Tracking summary

Current Status **✓ Shipment Delivered**

Delivered on 7/19/06 11:01 am

Delivered to Receptionist

Signed for by ZACHERY

Help me with the signed by codes

▶ Help

### New to DHL?

Registration is  
And as a regist  
have access to  
tools to help yo  
packages easil  
▶ Register Now

### Signature

  
RECEIVED IN GOOD ORDER EXCEPT AS NOTED

### Receiver Information

SURFACO TRANSPORTATION  
Washington, DC 20036  
United States

Tracking detail provided by DHL: 8/17/2006 12:09:07 PM

View Tracking  
Detail E-mail Delivery  
Signature Track new  
shipment 

You are authorized to use DHL tracking systems solely to track shipments  
tendered by or for you to DHL. Any other use of DHL tracking systems and  
information is strictly prohibited.

DHL Global | About DHL | Newsroom | Contact | Sitemap | Privacy Policy  
Copyright © 2006 DHL International, Ltd. All Rights Reserved.